

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CHRISTINA R. PAOLI,

Plaintiff,

v.

THE STATE OF DELAWARE and  
DELAWARE TECHNICAL AND  
COMMUNITY COLLEGE,

Defendants.

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C. A. NO. 06-462

JURY TRIAL DEMANDED

**DEFENDANT DELAWARE TECHNICAL AND  
COMMUNITY COLLEGE'S RESPONSIVE BRIEF IN  
OPPOSITION TO PLAINTIFF'S MOTION FOR MORE TIME  
TO RESPOND TO MOTION FOR JUDGMENT ON THE PLEADINGS**

WHITE AND WILLIAMS LLP

BY: 

Marc S. Casarino (ID #3613)  
824 N. Market Street, Suite 902  
P.O. Box 709  
Wilmington, DE 19899-0709  
Phone: (302) 467-4520  
Facsimile: (302) 467-4550  
Attorneys for Defendant,  
*Delaware Technical and Community  
College*

Dated: August 8, 2007

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**NATURE AND STAGE OF THE PROCEEDINGS**

On July 28, 2006, Plaintiff filed a complaint and sent a copy by mail to the Governor of Delaware and President of Delaware Technical and Community College (hereafter “**Delaware Tech**”). When Plaintiff filed the lawsuit she signed an acknowledgement of receipt for Federal Rule of Civil Procedure 4. (D.I. 1)

On October 30, 2006, Delaware Tech filed and served an answer to the complaint which asserted its defenses including lack of jurisdiction, personal and subject matter, and improper service of process. (D.I. 7)

On December 18, 2006, Delaware Tech filed a motion for judgment on the pleadings (D.I. 15) and Opening Brief in support of its motion under Rule 12(c). (D.I. 16)

On June 29, 2007, the Court ordered Plaintiff to respond on or before July 9, 2007 to Delaware Tech’s motion for judgment on the pleadings. (D.I. 18)

On July 9, 2007, Plaintiff filed a document titled “Request to Vacate or Modify Order” requesting, *inter alia*, additional time beyond July 9, 2007 to respond to Delaware Tech’s motion for judgment on the pleadings. (D.I. 19)

This is Delaware Tech’s responding brief in opposition to Plaintiff’s request for more time to respond to Delaware Tech’s motion for judgment on the pleadings.

**SUMMARY OF THE ARGUMENT**

I. Plaintiff has had more than sufficient time to prepare a response to Delaware Tech's motion for judgment on the pleadings. During the time that Plaintiff claims to have been unable to prepare a response to Delaware Tech's motion for judgment on the pleadings, she has prepared and filed an amended Complaint in this action and prepared and filed a complaint against the City of Lewes in this Court at C.A. No. 07-419 (GMS) . Moreover, Plaintiff has repeatedly represented to the undersigned counsel that Plaintiff is consulting with a non-Delaware attorney who is serving as Plaintiff's shadow counsel for this litigation. Thus, there is no legitimate reason Plaintiff has not responded to Delaware Tech's motion for judgment on the pleadings; which was served on Plaintiff over eight (8) months ago.

**STATEMENT OF THE RELEVANT FACTS**

On December 18, 2006, Delaware Tech filed its motion for judgment on the pleadings. (D.I. 15) Plaintiff's response to Delaware Tech's motion for judgment on the pleadings was due on or before January 2, 2007. See Del.Dist.Ct.L.R. 7.1.2. Plaintiff has not responded to Delaware Tech's motion for judgment on the pleadings. On June 29, 2007, the Court ordered Plaintiff to respond on or before July 9, 2007 to Delaware Tech's motion for judgment on the pleadings. (D.I. 18) On July 9, 2007, Plaintiff filed a document titled "Request to Vacate or Modify Order" requesting, *inter alia*, additional time beyond July 9, 2007 to respond to Delaware Tech's motion for judgment on the pleadings. (D.I. 19)

Plaintiff's request for additional time suggests that Delaware Tech "buried" its motion for judgment on the pleadings "behind" a response to Plaintiff's request for injunctive relief. This is simply not true. Delaware Tech filed and served upon Plaintiff two distinct documents. One was a response to Plaintiff's request for injunctive relief. (D.I. 13) The second, entirely separate, document was Delaware Tech's motion for judgment on the pleadings. (D.I. 15)

## ARGUMENTS

### **I. STANDARD OF REVIEW**

The Court “for cause shown may at any time in its discretion” extend the deadline to respond to a motion. See Fed.R.Civ.P. 6(b).

### **II. PLAINTIFF HAS FAILED TO SHOW GOOD CAUSE FOR AN EXTENSION OF TIME**

While requests for an extension of time are freely granted, such request must be within reason. Here the Plaintiff has had over eight (8) months to prepare a response to Delaware Tech’s motion for judgment on the pleadings. On July 9, 2007, Plaintiff professed to only learn of Delaware Tech’s motion for judgment on the pleadings as a result of this Court’s June 29, 2007 Order compelling Plaintiff’s response to the motion. Assuming for argument’s sake that representation is accurate, Plaintiff has had another month after this Court’s Order to prepare a response to the motion. That time period alone is twice as long as the Plaintiff would ordinarily have to file a response pursuant to the Federal Rules of Civil Procedure.

Despite this Court ordering Plaintiff to file a response to Delaware Tech’s motion for judgment on the pleadings, Plaintiff has failed to do so. Instead, Plaintiff filed a motion for permission to file a substantially amended complaint. Plaintiff has also filed a complaint in this Court in an unrelated matter against the City of Lewes at C.A. No. 07-419 (GMS). Furthermore, Plaintiff has repeatedly represented to the undersigned counsel that Plaintiff is being advised in this action by a non-Delaware attorney who is acting as shadow counsel. Unlike many *pro se* litigants, Plaintiff’s conduct demonstrates that she is familiar with the litigation process and Court rules. It is also doubtful that Plaintiff is truly acting *pro se* in this matter to the extent she is being advised by non-Delaware legal counsel. Under these circumstances, Delaware Tech

respectfully suggests that Plaintiff's delay in responding to the motion for judgment on the pleadings is inexcusable.



**CONCLUSION**

Plaintiff has failed to show good cause for her request for additional time to respond to Delaware Tech's motion for judgment on the pleadings. Accordingly, Plaintiff's request for additional time to respond should be denied. Alternatively, the Plaintiff should be restricted to a date certain within a brief period of time to file a response to Delaware Tech's motion for judgment on the pleadings.

WHITE AND WILLIAMS LLP

BY: 

Marc S. Casarino (ID #3613)  
824 N. Market Street, Suite 902  
P.O. Box 709  
Wilmington, DE 19899-0709  
Phone: (302) 467-4520  
Facsimile: (302) 467-4550  
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**CERTIFICATE OF SERVICE**

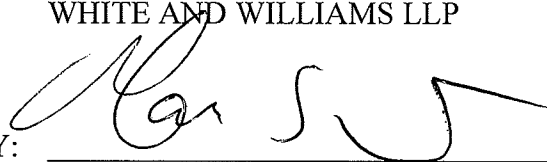
I, Marc S. Casarino, Esquire do hereby certify that on this 8<sup>th</sup> day of August, 2007, two copies of the foregoing **DEFENDANT DELAWARE TECHNICAL AND COMMUNITY COLLEGE'S RESPONSIVE BRIEF IN OPPOSITION TO PLAINTIFF'S MOTION FOR MORE TIME TO RESPOND TO MOTION FOR JUDGMENT ON THE PLEADINGS** were served upon the following via First Class Mail, postage prepaid:

Ms. Christina R. Paoli  
600 Third Street  
Rehoboth, DE 19971

Marc P. Niedzielski, Esquire  
Department of Justice  
820 N. French Street, 6<sup>th</sup> Floor  
Wilmington, DE 19801

WHITE AND WILLIAMS LLP

BY:



Marc S. Casarino (ID #3613)  
824 N. Market Street, Suite 902  
P.O. Box 709  
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